

REMARKS

Claims 1, 7, and 9, 11, and 13-17 are the only active claims pending in this application. Claims 10 and 12 are canceled above. Claims 2-6 and 8 were previously canceled. The foregoing separate sheets marked as "Listing of Claims" show all the claims in the application, each with an indication at its first line showing the claim's current status.

I. Rejection of Claim 16, Under 35 U.S.C. § 112, second paragraph

The Office Action rejects claim 16 as indefinite under 35 U.S.C. § 112, second paragraph, on the stated position "that there is insufficient guidance ... regarding the term 'communication extent,' and that a person of ordinary skill in the art would not be able to ascertain the scope and bounds of" the term. Office Action at p. 3.

Applicant respectfully traverses the rejection. Applicant submits that Applicant's Specification, including the description at page 12, lines 13-19 and at page 16, lines 10-14, provides more than sufficient guidance for a person of ordinary skill in the art to ascertain the scope and bounds of "communication extent," namely that the term plainly means a communication band usage by the terminal, *i.e.*, a quantity of data communicated (transmitted and received) by the terminal over a given time (*e.g.* billing) period.

To expedite examination, though, Applicant has amended claim 16 to change the form of "communication extent" to "communication band usage, and positively recite, for purposes of form, the plain meaning of "communication band usage," which is "the quantity of data communicated by the terminal over a given period," as recited by Applicant's Specification at page 12, lines 13-19 and at page 16, lines 10-14.

Applicant respectfully submits this form amendment does not raise any new issues, does not necessitate any further search, and does not require

any more than a cursory inspection to determine that it clearly overcomes the Section 112 rejection.

Applicant therefore respectfully urges entry of this form amendment, and urges that the rejection under 35 U.S.C. § 112, second paragraph, be reconsidered and withdrawn.

II. Claim Rejections Under 35 U.S.C. § 103

The Office Action rejects claims 1, 9, 10, 12-15 and 17 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0200439 (“Moscowitz”), in view of U.S. Patent No. 5,987,430 (“Van Horne”) in view of what the Office Action identifies as “what is well known in the art.” Office Action at p. 4.

The Office Action also rejects claims 7, 11 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Moscowitz, in view of Van Horne, in view of U.S. Publication No. 2006/0239254 (“Short”), in view of what the Office Action identifies as “what is well known in the networking art.” Office Action at p. 4.

Applicant traverses all of these prior art rejections.

Claims 10 and 12 are canceled for purposes of simplifying issues. The cancellation is not a disclaimer of subject matter, and is not an admission as to prior art. Applicant respectfully reserves all rights to further respond to the rejection of canceled claims 10 and 12, and to pursue these and any other claims to any disclosed subject matter, by one or more continuation applications based on this application.

Claims 1, 9 and 13

Applicant respectfully submits that the rejection of base claims 1, 9 and 13 is not supported by the references relied upon. Stated with greater particularity, Applicant respectfully submits that considering all claim

limitations, each interpreted according to its broadest reasonable meaning, and considering each and every cited references in its entirety, the rejection of claims 1, 9 and 13 is not supported by the references' combined disclosures.

Applicant's claims 1 and 9 define, in combination with other elements, a plurality of terminals having unique identifiers, connected to the internet through a gateway, with the gateway recited as arranged to record a communication band usage for each terminal's communication with the internet, the band usage being a quantity of data communicated by the terminal. The gateway is recited as arranged to generate a communication fee, for each of the terminals, based on a ratio of the terminal's communication band usage to the total communication band usage data for all of the terminals. Therefore, each terminal's fee is based on the proportion of the total communication band usage, over a given time period, that is identified to that terminal.

Applicant's claim 13 defines, in combination with other elements, a gateway and a "charging server" arranged similar to the gateway of claims 1 and 9, *i.e.*, arranged to record a communication band usage for each terminal's communication with the internet, and generate a communication fee, for each of the terminals, based on a ratio of the terminal's communication band usage to the total communication band usage data for all of the terminals.

As described in Applicant's Specification, this claimed proportional fee calculation removes problems in the prior art billing systems such as , for example, terminal users believing that management of, for example, a collective condominium receives profits due to multiple terminals having high usage, regardless of the collective condominium paying a fixed fee. *See* Specification, at p. 1, lines 15-21; and at p. 17, lines 19-25.

The difference between the "scope and content of the prior art," namely the combined disclosures of Moscovitz, Van Horne and Short, and base

claims 1, 9, and 13 is that the claims define each terminal's fee being based on the proportion of the total communication band usage, over a given time period, that is identified to that terminal.

There is a total lack in the record of this application of objective evidence showing obviousness to one of ordinary skill in the art at the time of the invention of combining and modifying the disclosures of Moscovitz, Van Horne and Short to achieve base claims 1, 9 and 13.

The Office Action's position is that Moscovitz does not "explicitly disclose ... [a] communication fee based on a ratio of the recorded band usage for the terminal to a total" recorded band usage for all of the terminals. Office Action at 5.

Applicant responds that the Office Action's position on Moscovitz, namely that Moscovitz does not "explicitly disclose" a communication fee based on a ratio of band usage, understates the total irrelevance of Moscovitz to any of Applicant's claims. Moscovitz, to the extent it can be understood describes selling packet priority rights, assigning purchasers of these rights different "watermarks," inspecting each packet's watermark as it flows through the internet, and then routing the packet according to the priority reflected by the watermark. According to Moscovitz, this allows users to pre-pay for different qualities of service (QoS).

Moscovitz does not teach or disclose anything even remotely suggestive of, or toward, a communication fee based on a ratio of band usage. Stated differently, Moscovitz discloses nothing pertaining to any of Applicant's claims 1, 9 and 13.

Applicant further and respectfully submits that, with respect to base claims 1, 9 and 13, Moscovitz is actually inferior to the admitted prior art disclosed in the Background of Applicant's Specification. Moscovitz teaches nothing of usage fees for multiple terminals connecting through a common gateway.

The Examiner's position is that "at the time of the invention it was well-known that the bandwidth usage is often a component" of the fee charged to user. Office Action at p. 5.

Applicant respectfully responds that Applicant's invention is described as directed to a significant problem, however, arising in this prior art usage based fee arrangement, e.g., collective condominiums using a common gateway and charging users based on their bandwidth usage. *See* Specification, at p. 1, lines 15-21; and at p. 17, lines 12-25.

As described, the problem with this prior art usage based fee arrangement is that as multiple users increase their usage the sum total of all the fees charged increases, irrespective of the management only paying the same fixed for the common gateway access. *Id.*

None of the prior art references relied upon, i.e., Moscovitz, Van Horne and Short, teaches, discloses or suggests *anything* of, or toward the present invention's claimed ratio based fee arrangement that solves this problem.

The Examiner, however, without identifiable support from Moscovitz's disclosure, takes a position that Moscovitz somehow shows that a "communication premium based on a ratio of the recorded communication band ... to a total" usage would have been obvious. Office Action at p. 5.

With all due respect, the Examiner's position is not supported by the Moscovitz disclosure. Moscovitz discloses sale and management of priority-ranked rights to future bandwidth. Moscovitz discloses *nothing*, whatsoever, having anything to do with charging a plurality of users, in any arrangement, system or method, according to the ratio of each user's recorded bandwidth use to the total of their recorded bandwidth usage.

The secondary reference, Van Horne adds nothing to Moscovitz, or to Applicant's admitted prior art, having anything to do with any of Applicant's claims. Van Horne discloses only a connection-time charge. Applicant's invention, however, is directed to a problem with this arrangement. It

necessarily existed at the time of Applicant's invention. *See* Specification, at p. 1, lines 15-21; and at p. 17, lines 12-25. Van Horne therefore adds nothing to Applicant's admitted prior art, and nothing to Moscovitz.

Applicant respectfully submits that the combined teachings of Moscovitz and Van Horne are no closer to any of Applicant's claims 1, 9 and 13 than is either reference standing alone, and that either reference standing alone is inferior to Applicant's admitted prior art. Applicant therefore respectfully urges this rejection of base claims 1, 9 and 13 be reconsidered and withdrawn.

Claims 14, 15 and 17 depend from claim 1 and, therefore, are patentable over Moscovitz, Van Horne and what the Examiner identifies as "what was well known in the art," for at least the reasons presented above.

Claims 7, 11 and 16

Applicant submits that the rejection of claims 7, 11 and 16 is not supported by the references relied upon. Stated with greater particularity, Applicant respectfully submits that considering all claim limitations, with each interpreted according to its broadest reasonable meaning, and considering each and every cited references in its entirety, the rejection of claims 7, 11 and 16 is not supported by references combined teachings.

Claim 16 depends from claim 1.

Applicant submits that, with respect to base claim 1, the combined teachings of Short, Moscovitz, and Van Horne are no closer to the claim than any of these references standing alone. Short discloses *nothing* with respect to the base claim 1 recited element of a gateway arranged to generate a communication fee, for each of the terminals, based on a ratio of the terminal's communication band usage to the total communication band usage data for all of the terminals.

The Office Action's position in rejecting claim 16 is that Short discloses enabling internet access of multiple terminals through a common gateway,

via storing authorized MAC addresses and using these to verify communications. Office Action at p. 14.

Applicant respectfully responds that this disclosure by Short adds nothing to Moscowitz and Van Horne with respect to base claim 1. As Applicant states above, neither Short nor any other of identified references teaches, discloses or suggests *anything* of, or toward generating a communication fee for individual users, in any arrangement, much less in the claimed arrangement of multiple terminals connecting through a common gateway, based on a ratio of stored communication usage to the total communication usage of all users.

With respect to the claim 16 recital storing the communication usage and generating the ratio-based communication fee for terminals having authorized MAC addresses, *none* of Short, Moscowitz, and/or Van Horne teaches, discloses or suggests *anything* of, or toward generating the communication fee for each authorized (based on MAC or any equivalent identifier) terminal based on a ratio of its stored communication usage to the total communication usage of all authorized terminals.

Applicant therefore respectfully urges that, for at least this reason, this rejection of dependent claim 16 be reconsidered and withdrawn.

Turning to base claims 7 and 11, each of these claims recites, in combination with other elements, a gateway arranged to record a communication band usage for each terminal's communication with the internet, the band usage being a quantity of data communicated by the terminal. The gateway is recited as arranged to generate a communication fee, for each of the terminals, based on a ratio of the terminal's communication band usage to the total communication band usage data for all of the terminals. Therefore, each terminal's fee is based on the proportion of the total communication band usage, over a given time period, that is identified to that terminal.

With respect to Moscovitz and Van Horne, Applicant respectfully repeats Applicant's arguments above that the combination of Moscovitz and Van Horne discloses *nothing*, whatsoever, of or toward charging a plurality users, in any arrangement, system or method, according to the ratio of each user's recorded bandwidth use to the total of their recorded bandwidth usage. Applicant further and respectfully submits that Short adds *nothing* to Moscovitz and Van Horne pertaining to the gateway element of base claims 7 and 11.

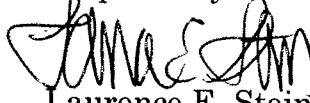
Applicant therefore respectfully urges that the rejection of claims 7, 11 and 16 be reconsidered and withdrawn.

CONCLUSION

Applicant respectfully requests that for the foregoing reasons the application be reconsidered, claims 1, 7 and 9, 11 and 13-17 be allowed, and the application be passed to issue. Should the Examiner find the application to be other than in condition for allowance, the Examiner is respectfully requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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